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16 IN THE UNITED STATES DISTRICT COURT
17 FOR THE CENTRAL DISTRICT OF CALIFORNIA
18

19 CHRISTOPHER BARULICH,
20 individually and on behalf of all others
similarly situated,

21 Plaintiff,

22 v.

23 THE HOME DEPOT, INC., a Delaware
24 corporation, and GOOGLE LLC, a
Delaware limited liability company,

25 Defendants.
26
27
28

Case No. 2:24-cv-01253-FLA-JC

**GOOGLE LLC'S NOTICE OF
MOTION AND RENEWED
MOTION TO TRANSFER;
MEMORANDUM OF POINTS
AND AUTHORITIES**

Hearing

Date: June 21, 2024
Time: 1:30 p.m.
Judge: Fernando L. Aenlle-Rocha
Place: Courtroom 6B

NOTICE OF MOTION

TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on June 21, 2024, at 1:30 p.m., or as soon thereafter as the matter may be heard, before the Honorable Fernando L. Aenlle-Rocha of the Central District of California at the First Street Courthouse, Courtroom 6B, 6th Floor, located at 350 West First Street, Los Angeles, California 90012, Defendant Google LLC (“Google”) will and hereby does move the Court to transfer this case to the United States District Court for the Northern District of California, so that it can be concurrently litigated with an earlier-filed case, *Misael Ambriz v. Google LLC* (N.D. Cal. filed Oct. 23, 2023), pending before the Honorable Rita F. Lin.

This Motion is based on this Notice of Motion, the following Memorandum of Points and Authorities, the pleadings, any oral argument, and any other materials properly presented with this Motion. This Motion is made following the conferences of counsel pursuant to Local Rule 7-3, which took place on April 9, 2024 and on May 8, 2024.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Nearly four months after *Ambriz v. Google*, No. 3:23-cv-05437 (N.D. Cal. Oct. 23, 2023) (“*Ambriz*”) was filed in the Northern District of California, Plaintiff Christopher Barulich filed this nearly identical action, captioned *Christopher Barulich v. The Home Depot, Inc. et al.*, No. 2:24-cv-01253 (C.D. Cal. Feb. 14, 2024) (“*Barulich*”). Here, Barulich alleges that Google violated Cal. Penal Code § 631(a) (“Section 631(a)”) of the California Invasion of Privacy Act (“CIPA”), through its provision of certain services to the Home Depot, Inc. (“Home Depot”) via Google Cloud’s Contact Center Artificial Intelligence (“CCAI”) technology. As alleged, the only difference between *Barulich* and *Ambriz* is that *Ambriz* involves Google’s provision of CCAI services to Verizon Communications, Inc. (“Verizon”), whereas in *Barulich*, Home Depot is the customer.

Under the first-to-file rule, the Court should transfer this action to the Northern District of California, so that this case may be litigated alongside *Ambriz*. Each requirement of the first-to-file rule is satisfied here: (1) chronology, (2) similarity of legal issues, and (3) similarity of parties. First, this case was filed nearly four months after *Ambriz*. Second, the two actions involve the same primary legal claims and defenses: whether Google allegedly eavesdrops on customer service calls via CCAI, whether Google is a third party to these communications, whether the alleged interception occurred “in transit,” whether plaintiffs consented to the alleged interception, and whether plaintiffs used a landline, as required to state a violation under Section 631(a)’s first clause. Third, there is substantial overlap between the parties. Google is a named defendant in both cases, the putative classes have the same interests, and there may be overlap between the two class definitions.

The Court can also transfer this action under 28 U.S.C. § 1404(a) (“Section 1404(a)”) because this action could have been filed in the Northern District of California and litigating this action in that District will be more convenient for the

1 parties and conserve federal judicial resources.

2 Principles of economy, consistency, and comity warrant transferring this case
3 to the Northern District of California. For the reasons explained more fully below,
4 the Court should grant Google’s Motion.

5 **II. BACKGROUND**

6 **A. The First Action: *Ambriz v. Google* (N.D. Cal.)**

7 On October 23, 2023, Plaintiff Misael Ambriz filed a class action lawsuit
8 against Google alleging that CCAI constituted an illegal wiretap under the first and
9 second prongs of Section 631(a). *See* ECF No. 29-1, Declaration of Kristine Forderer
10 (“Forderer Decl.”), ¶ 2, Ex. A (“*Ambriz Compl.*”). Ambriz alleges that on several
11 occasions he called Verizon’s customer contact center which used CCAI. *Ambriz*
12 *Compl.* ¶¶ 25, 32. Ambriz further claims that Google’s “session manager”—a
13 computer—remained on the line when he was transferred to a live human agent, and
14 suggested “‘smart replies’ and news articles to the Verizon agent [Ambriz] was
15 communicating with.” *Id.* ¶ 36. Ambriz claims that he expected this portion of the
16 conversation to “be only between himself and the Verizon human customer service
17 agent,” not CCAI. *Id.* ¶ 35. Ambriz alleges that “Google read and learned, in real
18 time, the contents of Plaintiff’s conversation with Verizon,” all without obtaining
19 consent. *Id.* ¶¶ 37–38.

20 Ambriz brings the action on behalf of any individual in the United States who
21 “had the contents of their conversations with Verizon read and learned by” Google
22 using CCAI, and a subclass of individuals who were in California at the time of the
23 alleged wiretapping. *Ambriz Compl.* ¶¶ 40–41.

24 Ambriz alleges that the following common questions will predominate: (1)
25 whether Google violated Section 631(a); (2) whether Google had “sought or obtained
26 prior consent—express or otherwise” from Ambriz or the putative classes; and (3)
27 whether Ambriz and the putative class are entitled to “actual and/or statutory
28 damages.” *Ambriz Compl.* ¶ 45.

Google moved to dismiss *Ambriz* earlier this year arguing, *inter alia*, that CCAI is not a “third-party” for purposes of CIPA liability. Forreder Decl., ¶ 3, Ex. B (Google’s Motion to Dismiss *Ambriz*) at 5:10–11. Judge Rita Lin held oral argument on March 19, 2024, and took the matter under submission. *Id.* ¶ 4. As of the date of this filing, Judge Lin has not yet issued a written order. *Id.* Further, as of the date of this filing, the *Ambriz* Court has not yet held a case management conference or set a case schedule, and no discovery has commenced. *Id.* ¶ 5.

B. The Second Action: *Barulich v. Google* (C.D. Cal.)

On February 14, 2024, Plaintiff Christopher Barulich filed a class action lawsuit against Google and Home Depot alleging that Google illegally wiretapped Barulich’s customer service calls to Home Depot through CCAI, in violation of Section 631(a). ECF No. 1. On April 30, 2024, before any party filed a response, Barulich filed his first amended complaint. ECF No. 32 (“*Barulich* FAC”).

Barulich alleges he “placed multiple calls to Home Depot’s customer service” center, which he alleges used CCAI. *Barulich* FAC ¶¶ 26, 33. Like *Ambriz*, Barulich alleges that he “first spoke with a Home Depot ‘virtual agent’” and “was not aware, and had no reason to believe, that his communications were simultaneously being disclosed to a third party: Google.” *Id.* ¶¶ 28, 30. When Barulich was allegedly transferred to a live Home Depot agent, he claims that Google remained on the line and “suggest possible replies to the live Home Depot agent on the phone,” even though he “had a reasonable expectation that the conversation was only between himself and Home Depot.” *Id.* ¶¶ 33, 31. Like *Ambriz*, Barulich alleges that “Google read, attempted to read, or learned the contents of [Plaintiff Barulich’s] communications with Home Depot.” *Id.* ¶ 35; *see Ambriz* Compl. ¶ 37.

Barulich brings the instant action on behalf of all California residents “who called Home Depot . . . in which Home Depot permitted Google to access, read, and/or learn the contents of callers’ communications via its CCAI service.” *Barulich* FAC ¶ 45.

1 Like Ambriz, Barulich alleges that the following common questions will
 2 predominate in this action, including whether: (1) Google violates Section 631(a);
 3 (2) Google was a third party to calls or merely provided a tool to Home Depot; (3)
 4 Home Depot and/or Google obtained prior or retroactive consent; and (4) Barulich
 5 and the putative class are entitled to damages under CIPA. *Barulich* FAC ¶ 48; *see*
 6 *id.* ¶ 56 (asserting Section 631(a) against Google).

7 On May 14, 2024, this Court extended the deadline for Google and Home
 8 Depot to answer or otherwise respond to the *Barulich* FAC until August 28, 2024.
 9 ECF No. 38. As of the date of this filing, no party has responded to the *Barulich*
 10 Complaint, no discovery has taken place, and the Court continued the case
 11 management conference until August 30, 2024. *Id.*

12 **III. LEGAL STANDARD**

13 **A. Transfer Under the First-To-File Rule**

14 The first-to-file rule permits a district court to dismiss, stay, or transfer a case
 15 “if a similar case with substantially similar issues and parties was previously filed in
 16 another district court.” *See Kohn Law Grp., Inc. v. Auto Parts Mfg. Miss., Inc.*, 787
 17 F.3d 1237, 1239 (9th Cir. 2015). In applying the rule, “a court analyzes three factors:
 18 chronology of the lawsuits, similarity of the parties, and similarity of the issues.” *Id.*
 19 at 1240.

20 “The first-to-file rule is intended to ‘serve[] the purpose of promoting
 21 efficiency well and should not be disregarded lightly.’” *Id.* at 1239 (quoting *Alltrade,*
 22 *Inc. v. Uniweld Prods., Inc.*, 946 F.2d 622, 625 (9th Cir. 1991)). “When applying the
 23 first-to-file rule, courts should be driven to maximize ‘economy, consistency, and
 24 comity.’” *Id.* at 1240 (citation omitted). The rule is “designed to avoid placing an
 25 unnecessary burden on the federal judiciary, and to avoid the embarrassment of
 26 conflicting judgments,” *Church of Scientology of Cal. v. U.S. Dep’t of Army*, 611
 27 F.2d 738, 750 (9th Cir. 1979), making it especially appropriate in the context of class
 28 actions, *see Zepeda v. Ulta Salon, Cosmetics & Fragrance, Inc.*, 2018 WL 6981842,

1 at *5 (C.D. Cal. June 1, 2018) (citation omitted) (explaining class actions are
 2 “‘frequently complex affairs which tax judicial resources,’ and are ‘the very cases in
 3 which the principles of avoiding duplicative proceedings and inconsistent holdings
 4 are at their zenith’”); *Henry v. Home Depot U.S.A., Inc.*, 2016 WL 4538365, at *4
 5 (N.D. Cal. Aug. 31, 2016) (citation omitted) (“‘[L]itigating a class action requires
 6 both the parties and the court to expend substantial resources’ and ‘the most
 7 important purpose of the first-to-file rule is to conserve these resources by limiting
 8 duplicative cases.’”).

9 Courts applying the first-to-file rule therefore look to whether the two actions
 10 are “substantially similar or involve substantial overlap,” rather than requiring
 11 identical parties or issues. *Priddy v. Lane Bryant, Inc.*, 2008 WL 11410109, at *7
 12 (C.D. Cal. Nov. 24, 2008); *see also Riffel v. Regents of the Univ. of Cal.*, 2019 WL
 13 5978784, at *5 (C.D. Cal. Nov. 12, 2019) (citation omitted) (“Cases are sufficiently
 14 similar where key issues overlap and the resolution of one case could affect the
 15 resolution of the other.”).

16 If the first-to-file rule applies, “the court of the later-filed action should defer
 17 to the jurisdiction of the court of the first-filed action by either dismissing, staying,
 18 or transferring the later-filed suit.” *Molander v. Google LLC*, 473 F. Supp. 3d 1013,
 19 1017 (N.D. Cal. 2020) (citation omitted). Here, Google seeks a transfer of this action.

20 **B. Transfer Under Section 1404(a)**

21 “The purpose of § 1404(a) is to ‘prevent the waste of time, energy, and money
 22 and to protect litigants, witnesses and the public against unnecessary inconvenience
 23 and expense.’” *Ickes v. AMC Networks Inc.*, 2023 WL 4297577, at *4 (N.D. Cal. June
 24 30, 2023). “For the convenience of parties and witnesses, in the interest of justice, a
 25 district court may transfer any civil action to any other district or division where it
 26 might have been brought.” 28 U.S.C. § 1404(a). Transfer under Section 1404(a) is
 27 proper if the action could have been brought in the other district, and if transfer would
 28 be convenient for the parties and serve the interest of justice. *Ickes*, 2023 WL

4297577, at *4.

IV. ARGUMENT

A. Transfer is Appropriate Under the First-to-File Rule

All three first-to-file factors—timing, similarity of issues, and similarity of parties—are satisfied here. The Court should therefore transfer *Barulich* to the Northern District of California under the first-to-file rule.

Timing of the Two Cases: “The first—and most fundamental—requirement is that the action in the transferee district court must have been filed prior to the action in the transferor district court.” *Zimmer v. Dometic Corp.*, 2018 WL 1135634, at *3 (C.D. Cal. Feb. 22, 2018). *Ambriz* was filed on October 23, 2023, and this action was filed on February 14, 2024—roughly four months after *Ambriz*.¹ The timing of the two actions satisfies the first factor under the first-to-file rule. *See Variscite, Inc. v. City of L.A.*, 2023 WL 3493557, at *10 (C.D. Cal. Apr. 11, 2023) (“The first factor simply requires that the case in question be filed later in time than the comparator case.”).

Identical Legal Issues: Under the first-to-file rule, “[c]ases are sufficiently similar ‘where key issues overlap and the resolution of one case could affect the resolution of the other.’” *Carrera v. First Am. Home Buyers Prot. Co.*, 2012 WL 13012698, at *5 (C.D. Cal. Jan. 24, 2012) (citation omitted); *see also eNom, Inc. v. Philbrick*, 2008 WL 4933976, at *2 (W.D. Wash. Nov. 17, 2008) (applying the first-to-file rule, even though the later-filed case included an additional claim, because the issues were still “overwhelmingly similar . . . so simultaneous adjudication of both cases would waste judicial resources”).

¹ The FAC in this action largely cuts and pastes from *Ambriz*, often repeating the same allegations with minor tweaks. *E.g., compare Barulich* FAC ¶ 35, with *Ambriz* Compl. ¶ 37. *Ambriz* also was reported in the legal press. *See* Lauren Berg, *Google AI Accused of Wiretapping Customer Service Calls*, LAW360 (Oct. 25, 2023), accessible at: <https://www.law360.com/articles/1736903> (last visited May 15, 2024). Plaintiff and his counsel clearly were aware of *Ambriz* but did not notify the Court of this related case per Local Rule 83-1.4.

As alleged, the issues raised by the claims against Google in this action are nearly identical to those raised in *Ambriz*. The central question in both cases is whether Google’s CCAI technology, as used in customer call centers, violates Section 631(a); answering this question involves the same legal questions around whether Google eavesdrops on customer service calls via CCAI, whether Google is a third party to customer service communications that use CCAI, whether the alleged interception is “in transit,” and whether Plaintiff used a landline. *Compare Barulich* FAC ¶ 48, with *Ambriz* Compl. ¶ 45. Other key issues common to both actions are whether plaintiffs and the putative classes consented to the challenged conduct, and whether Google is liable for statutory damages under CIPA. *See id.* That *Barulich* also alleges aiding and abetting and/or conspiracy liability against Home Depot does not change the analysis. Secondary liability necessarily turns on whether Google has violated Section 631(a)—the central issue in both cases. It is enough that “the resolution of the [earlier-filed] case would simultaneously resolve most, if not all, of the issues raised in the instant action.” *Gatlin v. United Parcel Serv., Inc.*, 2018 WL 10161198, at *6 (C.D. Cal. Aug. 23, 2018). Transfer is therefore warranted under the second factor because the main legal issues raised in *Ambriz* and *Barulich* are substantially identical.

Substantially Similar Parties: The third factor—substantial similarity of the parties—also is satisfied here. Google is a defendant in both actions, and the classes have similar interests. The addition of Home Depot as a defendant in *Barulich* does not affect the analysis. *See, e.g., Red v. Unilever U.S., Inc.*, 2010 WL 11515197, at *5 (C.D. Cal. Jan. 25, 2010) (“the first-to-file rule does not require identical parties,” only “substantial overlap”); *Kohn*, 787 F.3d at 1240 (inclusion of additional defendant in one action but not the other does not defeat a finding that there is substantial similarity between the parties). Instead, it is sufficient that Google is a named defendant in both actions. *See Youngevity Int’l, Inc. v. Renew Life Formulas, Inc.*, 42 F. Supp. 3d 1377, 1382 (S.D. Cal. 2014) (holding that a common defendant

1 makes both actions “substantially similar”).

2 In evaluating the similarity of plaintiffs in putative class actions, “courts look
3 to the proposed classes rather than the named plaintiffs.” *Red*, 2010 WL 11515197,
4 at *4. “Exact identity of the proposed classes is not required.” *Booker v. Am. Honda*
5 *Motor Co., Inc.*, 2020 WL 7263538, at *2 (C.D. Cal. Oct. 20, 2020). Rather, parties
6 are “‘substantially similar’ under the first-to-file rule ‘if they represent the same
7 interests.’” *Variscite*, 2023 WL 3493557, at *11 (collecting cases) (citation omitted);
8 *see also Aqua Connect, Inc. v. SHI Int’l Corp.*, 2019 WL 8883452, at *3 (C.D. Cal.
9 Dec. 16, 2019) (“Courts have found that if the parties are not identical in the two
10 related actions, they are ‘substantially similar’ under the first-to-file rule if they
11 represent the same interests.”).

12 The class definitions in *Barulich* and *Ambriz* include individuals who placed
13 customer service calls that Google, through CCAI, allegedly wiretapped and/or
14 eavesdropped. Both classes seek to recover statutory damages under Section 631(a).
15 Thus, both putative classes have “the same interests,” *see Variscite*, 2023 WL
16 3493557, at *11 (citation omitted), and the Court should find overlap of the parties
17 on this basis alone. *See Hoyt v. Amazon.com, Inc.*, 2019 WL 1411222, at *5 (N.D.
18 Cal. Mar. 28, 2019) (finding substantial similarity of two class actions asserting the
19 same independent-contractor-misclassification theory, despite different class
20 definitions, because the later-filed action “represents the same interests” as the
21 earlier-filed action); *Ruff v. Del Monte Corp.*, 2013 WL 1435230, at *3 (N.D. Cal.
22 Apr. 9, 2013) (finding product liability class actions, each asserting violations of
23 distinct consumer protection statutes, were “substantially similar in scope” for
24 purposes of applying the first-to-file rule); *Nova Wines, Inc. v. Adler Fels Winery*
25 *LLC*, 2007 WL 708556, at *3 (N.D. Cal. Mar. 2, 2007) (staying case under the first-
26 to-file rule where an earlier-filed action involving different parties would have been
27 “highly probative” on the issues in the instant action).

28 The first-to-file rule contemplates overlap between the classes, even if they are

1 defined differently, where, as here, the two putative classes are not mutually
 2 exclusive. *Barulich* includes a putative class of California residents who called Home
 3 Depot’s allegedly CCAI-enabled call center, and *Ambriz* includes two putative
 4 classes—a nationwide class and a California subclass—of persons who called
 5 Verizon’s allegedly CCAI-enabled call center. *Barulich* FAC ¶ 45; *Ambriz* Compl.
 6 ¶¶ 40–41. These classes are not mutually exclusive; some California residents may
 7 have called both Verizon’s and Home Depot’s call centers and would be included in
 8 both class definitions.

9 Furthermore, due to the particularized risk that parallel class actions pose to
 10 federal comity, courts have granted motions to transfer under the first-to-file rule
 11 even where the two actions involve *mutually distinct classes with no overlap*. See
 12 *MSP Recovery Claims, Series LLC v. Mallinckrodt ARD Inc.*, 2018 WL 2589014, at
 13 *3 (C.D. Cal. Jan. 17, 2018) (finding parties “sufficiently similar” and transferring
 14 case where the parties represented that plaintiffs in one class action “are excluded
 15 from the class definition” of the other); *Granillo v. FCA U.S. LLC*, 2016 WL
 16 8814351, at *3–4 (C.D. Cal. Jan. 11, 2016) (finding parties “sufficiently similar” and
 17 transferring case where “the classes in both actions were mutually exclusive”);
 18 *Cadenasso v. Metro. Life Ins. Co.*, 2014 WL 1510853, at *10–11 (N.D. Cal. Apr. 15,
 19 2014) (finding parties “sufficiently similar” and transferring case where one putative
 20 class consisted of only Missouri residents, and the other consisted of residents of the
 21 other 49 states, making both classes “mutually exclusive”). As in these cases, and
 22 despite the differences in the class definitions, *Barulich* and *Ambriz* involve the same
 23 key legal issues, name Google as a defendant, and represent a class of consumers
 24 who claim they were wiretapped and/or eavesdropped upon via Google’s CCAI.

25 Given the close relationship between this action and *Ambriz*, and the risk of
 26 inconsistent rulings if the cases remain in two separate courts, the Court should
 27 transfer this case to the Northern District of California to “maximize ‘economy,
 28 consistency, and comity.’” See *Kohn*, 787 F.3d at 1240 (citation omitted).

1 **B. Transfer Is Also Appropriate Under Section 1404(a)**

2 Transfer is also appropriate under Section 1404(a). In evaluating whether to
3 transfer an action under Section 1404(a), a court “must first determine whether the
4 transferee court is one in which the action could originally have been brought.”
5 *Gomes v. Wal-Mart Assocs., Inc.*, 2023 WL 5506024, at *2 (C.D. Cal. Apr. 13, 2023).
6 “If the answer to this threshold question is yes, the court must then determine whether
7 transfer is appropriate, considering the convenience of the parties, witnesses, and the
8 interest of justice.” *Id.*

9 *This action could have been filed in the Northern District of California:* To
10 satisfy the first Section 1404(a) requirement, the transferee court must have subject
11 matter jurisdiction over the dispute, personal jurisdiction over the parties, and venue
12 must be appropriate. *Bowman v. IRC-Interstate Realty Corp.*, 2014 WL 12966001,
13 at *3 (C.D. Cal. June 20, 2014).

14 Here, there is no dispute that *Barulich* could have been filed against Google in
15 the Northern District of California, which has subject matter jurisdiction over this
16 dispute pursuant to the Class Action Fairness Act of 2005. 28 U.S.C. § 1332(d)(2);
17 *Barulich* FAC ¶ 11. Given that both *Barulich* and Google are residents of California,
18 the Northern District of California has personal jurisdiction over both parties.² *See*
19 *Barulich* FAC ¶¶ 7, 13. Finally, venue would be proper in the Northern District under
20 28 U.S.C. § 1391(b)(2) because Google—which developed and licensed CCAI, the
21 service at the center of *Barulich*’s claims—maintains its principal place of business
22 there. *See Barulich* FAC ¶ 10. Thus, the first requirement under Section 1404(a) is
23 satisfied.

24
25
26 ² Home Depot contends that there is no personal jurisdiction over Home Depot in
27 *either* the Central District or the Northern District of California. If necessary, Google
28 alternatively requests a stay of this action (under the first-to-file rule) while the Court
resolves Home Depot’s challenge to personal jurisdiction. If this Court concludes
that there is personal jurisdiction, counsel for Home Depot has represented that it
does not object to transfer.

1 ***Considerations of convenience and fairness support transfer:*** In evaluating
 2 whether the interests of justice warrant transfer under Section 1404(a), courts
 3 consider a variety of factors that should not be applied mechanically, including but
 4 not limited to: (1) “the location where the relevant agreements were negotiated and
 5 executed”; (2) “the differences in the costs of litigation in the two forums”; and
 6 (3) “the ease of access to sources of proof.” *See Gomes*, 2023 WL 5506024, at *2
 7 (considering these factors “against the backdrop of the statutory requirements 28
 8 U.S.C. 1404(a): Convenience of witnesses, convenience of parties, and the interests
 9 of justice”). These factors also support transferring this action to the Northern District
 10 of California.

11 Because Google has its principal place of business in the Northern District,
 12 much of the evidence relevant to this case and *Ambriz* will likely originate and/or be
 13 coordinated from that District. This includes evidence regarding the development,
 14 capabilities, use and maintenance of the underlying technology at issue—CCAI—as
 15 well as evidence related to CCAI contracts with Google’s customers. In addition to
 16 documentary evidence, the largest group of Google employees with relevant
 17 knowledge about these cases are based in the Northern District of California, thus
 18 making it more convenient for them to participate in proceedings if this action is
 19 transferred. *See* ECF No. 29-2, Declaration of Jacky Goodwin ¶ 2.

20 Further, considerable efficiencies will be gained by the parties and the courts
 21 if both cases proceed in the same District before a single judge. As to conserving
 22 judicial resources, the Northern District may explore a variety of options to manage
 23 the two cases if this case is transferred, which could take the form of consolidated
 24 briefing, coordinated discovery, or other mechanisms that can be used to efficiently
 25 resolve the cases. At minimum, litigating two fundamentally identical cases in two
 26 separate districts will make it more costly for both Google and the federal judiciary.
 27 The interests of justice will be served if the Court transfers this action to the Northern
 28

1 District so that it can be litigated alongside *Ambriz*.

2 **V. CONCLUSION**

3 For these reasons, the Court should transfer this action to the Northern District
4 of California pursuant to the first-to-file rule or under Section 1404(a).

5 Dated: May 24, 2024

COOLEY LLP

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8 By: /s/ Kristine A. Forderer
Kristine A. Forderer

9 Attorney for Defendant
10 GOOGLE LLC

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12 **CERTIFICATE OF COMPLIANCE**

13 The undersigned, counsel of record for Google LLC, certifies that this brief
14 contains 3,596 words, which complies with the word limit of L.R. 11-6.1.

15
16 /s/ Kristine A. Forderer
17 Kristine A. Forderer

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